

REMARKS

Claim 11 is added, and therefore claims 6 to 8 and 11 are pending and under consideration in the present application (claims 9 and 10 were previously withdrawn in response to a restriction action).

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

As to paragraph four (4) of the Office Action, Claims 6 to 8 were rejected under 35 U.S.C. § 103(a) as unpatentable over Nier et al., U.S. Patent No. 4,063,237, in view of Hering et al., U.S. Patent No. 5,440,109.

In rejecting a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The Nier and Hering references do not disclose or suggest all of the features of claims 6 to 8. Claim 6 is to a “motor vehicle having an adaptive distance and speed control for lane allocation of vehicles on multi-lane roads,” including the feature of “*carrying out the lane allocation in a model-based manner via a frequency distribution of lateral displacements of detected radar objects by: correlating the frequency distribution with one of (a) stored models for frequency distributions of lateral displacements, relating to lane allocation for multi-lane roads having a defined width and (b) characteristic lateral displacement histograms for different lanes used by a succeeding vehicle; and outputting a model part having a highest correlation to the frequency distribution as a lane hypothesis.*” The Nier and Hering references do not disclose or suggest *carrying out the lane allocation in a model-based manner via a frequency distribution of lateral displacements of detected radar objects*. Nothing in either reference discloses or suggest a frequency distribution of lateral

displacements of detected radar objects at all. The Office Action relies on the Nier reference for the feature. However, nothing in Nier discloses or suggests either a frequency distribution of lateral displacements of detected radar objects or carrying out the lane allocation in a model-based manner via a frequency distribution of lateral displacements of detected radar objects.

The Nier and Hering references also do not disclose or suggest the claim features of *correlating the frequency distribution* with one of (a) *stored models for frequency distributions of lateral displacements*, relating to lane allocation for multi-lane roads having a defined width and (b) *characteristic lateral displacement histograms* for different lanes used by a succeeding vehicle. As explained above, the references do not disclose or suggest a frequency distribution at all. The references also do not disclose or suggest the features of *stored models for frequency distributions of lateral displacements or characteristic lateral displacement histograms*.

Therefore, the references cannot disclose or suggest correlating the frequency distribution with one of (a) stored models for frequency distributions of lateral displacements, relating to lane allocation for multi-lane roads having a defined width and (b) characteristic lateral displacement histograms for different lanes used by a succeeding vehicle. Similarly the references cannot disclose or suggest outputting a model part having *a highest correlation to the frequency distribution* as a lane hypothesis.

Accordingly, claim 6 is allowable.

Claim 7 is to a device, including the feature of “means for carrying out *a lane allocation in a model-based manner via a frequency distribution of lateral displacements of detected radar objects*,” and the feature of “means for *correlating a determined frequency distribution* with one of (a) *stored models for frequency distributions of lateral displacements*, relating to lane allocation for multi-lane roads having a defined width and (b) *characteristic lateral displacement histograms* for different lanes used by a succeeding vehicle.

As explained above, the Nier and Hering references do not disclose or suggest a frequency distribution of lateral displacements of detected radar objects or a lane allocation in a model-based manner via a frequency distribution of lateral displacements of detected radar objects. Also as explained above, the references do not disclose or suggest either stored models for frequency distributions of lateral displacements or characteristic lateral

displacement histograms. Therefore, the references do not disclose or suggest means for correlating a determined frequency distribution with one of (a) stored models for frequency distributions of lateral displacements, relating to lane allocation for multi-lane roads having a defined width and (b) characteristic lateral displacement histograms for different lanes used by a succeeding vehicle.

Accordingly, claim 7 is allowable, as is its dependent claim 8.

As to paragraph five (5) of the Office Action, Claims 6 to 8 were rejected under 35 U.S.C. § 102(e) as anticipated by Nakamura et al., U.S. Patent No. 6,311,123.

The Nakamura reference is not prior art as to the present application. The present application claims priority, under 35 U.S.C. § 119, to Federal Republic of Germany Patent App. No. 100 15 111.6, filed March 28, 2000, as established by the accompanying certified translation. The Nakamura reference, however, was filed on June 28, 2000, after the filing of the present application. Therefore, the Nakamura reference is not prior art.

Accordingly, claims 6 to 8 are allowable.

New claim 11 does not add any new matter and is supported by the present application. Claim 11 corresponds to claim 1 in the correspondingly allowed claim in the corresponding European case EP application 01 929 273.9.

Claim 11 includes features like those of claim 6 and is therefore allowable for essentially the same reasons. In particular, claim 11 is allowable because it is to a method for performing lane allocation of consecutive vehicles on a multi-lane road, the method comprising: determining lateral displacements of radar sensor detected objects relative to a longitudinal vehicle axis, wherein the lane allocation is implemented in a model-based manner via a frequency distribution of the lateral displacements of the radar sensor detected objects; determining a histogram of a frequency distribution of the lateral displacements; correlating the histogram to stored lane models; and detecting an instantaneously driven lane of the multi-lane roadway based on a lane model having a greatest correlation to a laterally-offset histogram. Any review of the applied references makes plain that they do not disclose these features.

In sum, claims 6 to 8 and 11 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

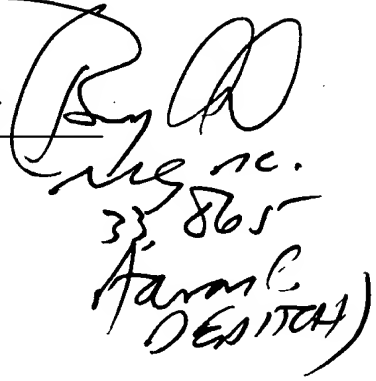
Respectfully submitted,

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